I take up next, then, the proposition Would the misdemeanor cohabitation (for is the member from Utah re this committee), even if stitute a disqualification for Congressman?

is leads us to the considerahe effect of having pleaded the misdemeanor of unlawitation in 1889. The Edmunds the misdemeanor of unlaw-tation a disqualification for The 8th section of the Edmunds ds as follows:

hat no polygamist, bigamist, or per habiting with more than one and no woman cohabiting with persons described as aforethis section, in any Territory place over which the United e exclusive jurisdiction, shall to vote in any election held Territory or other place, or ction or appointment public trust, honor, or emol-under, or for any such Terplace, or under the United

question to be considered is whe isqualifying features of this aw now disqualify the mem-In other words, it is here that since 1889 he has ded here the offense of this mis-ner of unlawful cohabitation, and I am able to judge of the presented, it seems to be that since the offense has (making that statement sake of argument only) that torial law apply now to the wall of statehood, in other acts as no barrier to the conof the disqualifying clauses on of the committee to the fact this whole law was made only for

ritories of the United States and

r places over which the United

has exclusive jurisdiction. first section provides that "every who has a husband or wife livthe United States have exclusive n who hereafter marries hall be guilty of polygamy. And the clauses creating and dethe offense of unlawful cohabi-, and so with this 8th section, that the political disqualifications dant upon violation of that law. peration of the whole law is limf course, to the Territories of the States and other places over the United States may have exjurisdiction. I scarcely know proceed with an argument to lish the fact that laws of the d States—laws made for and oper-in a Territory only—when that ory becomes a State cease to opwithin the boundaries of that

seems to me that you might just as undertake to argue that the sun s sometimes. It is a proposition it is sustained by the whole history e admission of the Territories of rritory becomes a State every States law enacted for the tory, and which previously opered in that Territory, ceases with atchood; and only such United States s operate in the new State as operevery other State. The new -every State-is admitted upon ting with all the rest of the States. is free from able only to the Territories

ther place over which the United tes has exclusive jurisdiction. he Chirman. Before you leave that ular phase-I don't want to inhere necessarily, but I want to in that connection that was not ch ought to be called to your atten efore you leave it, so you will The an opportunity to comment upon I mean as to the effect of section the Edmunds act. I do not want nterrupt you, however, if you have gotten to a point where you can

Mr. Roberts. I wish you would state Chairman. It is this: Section the Edmunds act makes ineligible election or appointment to, or to entitled to hold, any office or place alle trust under the United States Supreme Court of the United is has defined, if you will remem that is meant by a polygamist is ains the status of husband and irrespective of the matter of sex-intercourse, and that a polygamist condition that inheres in him. He olygamist who has more than one at you have two or more wives, and the sense in which the Supreme has defined the word "polyga-that you are a polygamist in the of Utah, or would be if Utah still a Territory-and section 8

you would be a polygamist in ritory-and that you come to district of Columbia, which is a cory over which the United States clusive jurisdiction, and in which the Congress of the United States sclusive jurisdiction, and in alone the Congress of the Unittes can sit and have its being, the place that you have or more wives or not, whethre in a State or in a Terriask you whether when you put d States has exclusive jurisdiction take with you, and there here with you on that soil, atus of a polygamist, and are you a palygamist. And therefore if the ald be passed at all, if Conwould not a person in such a sitoberts. But could he be a cante in the District of Columbia for

The Chairman, But the peculiarity t the Edmunds law, which was Mr. Cannon's case in 1882, was that he could not hold office. And oint made in this case would be er you would be eligible to hold within the District of Columbia. listrict over which the United States xclusive jurisdiction. Now, I exes no opinion upon that at all, but called it to your attention now, as ild not be called to your attention e you concluded your argument if

not do so. Roberts. I think I have anticipat. ed some such an argument as that. I was about to refer to the fact that, notmer Territory of Utah, Statehood had, my judgment, materially changed the dition of a representative coming from at former Territory. The chairman this committee, who drew the indictant upon the floor of the House alast the member from Little and the member from L nst the member from Utah, seemed old at that time, as he apparently holds, that the disqualifying clause he Edmunds law, now ineffective, rates upon the member from Utah; and that statement is to be found in the ressional Record, No. 1, page 5 If this transcript and these affidavits and papers tell the truth, the memberelect from Utah is, in my judgment, in-eligible to be a member of this House of Representatives, both because of the

ry disqualifications created by the Edmunds law, and for higher and

traver and quite as sound reasons.

And that was the main line of argu-

ment, or one of the main lines of argu-

ment that was followed here yesterday afternoon-an attempt to so construe the old Territorial law as to make it operative now upon a member of the House from a State. It seems to me that the test of that matter would be: We will suppose a man coming from the State of Ohio. That is, of course, just by chance. We could not conceive it possible for any such thing to happen from the State of Ohio; but we suppose that a polygamist came from the State of Ohio. Would the disquallfication sought to be shown as operating upon the member from Utah be operat upon a polygamist if he should come from the State of Ohlo?

The Chirman, Undoubtedly, here is any force in the position I took f he as a polygamist, the Edmunds law would operate upon him when he came upon the soil over which the United States had exclusive jurisdic-

Mr. Roberts. Now, upon that matter wish to offer such exposition of this Edmunds law as I am able to present

I contend, first, that this Edmunds aw was made for and is operated only Territories and other places which the United States has exclusive jurisdiction, not elsewhere—not in a State. In Territories officers are of two kinds, first, Territorial officers, such as istices of the peace, members of the gislature, etc., and second, United egislature, etc., and second, ates officers, such as district judges, inited States marshals, etc.

The meaning of the eighth section of the Fdmunds law is that persons guil-ty of polygamy or unlawful cohabitaon are ineligible— First to hold office under the Terri-

ories; that is, Territorial officers. And second, to hold offices under the United States in Territories; that is, to be United States officers in the Ter-

The Edmunds law and its disqualifications do not apply to United States officials outside of the Territories or other places over which the United States has exclusive jurisdiction.

But now we come to the point that is directly raised by the remarks of the chairman here. If it is held that epresentative is an officer "under the nited States," and that therefore the Edmunds law applies to him, no matter where he comes from, the answer to that contention would be that a repre-sentative is not an officer under the United States within the meaning eith er of the Edmunds law or of the Con-I call attention to the lan guage of the Constitution with reference to a representative to the United States Congress. Paragraph 2 says: No Senator or representative shall, turing the time for which he was lected, be appointed to any civil offic under the authority of the United States which shall have been created, or the emoluments whereof shall have en increased, during such term, and no person holding any office under the States shall be a member either house during his continuance in office. (Article I, section 6, of the Con-

I call attention to the fact that the language is not, " and no person holding any other office under the United and by the omission of word "other" at this point proves that neither at representative nor a senator is an officer of the United States withthe meaning of that clause of the And again, in Article II, section 1:

But no senator or representative or person holding any office of trust or profit under the United States shall be

You will notice again that the senators and representatives are by that language excluded as being among the the United States.

I call attention next to the Blount case, in which it was held that a United States senator was not an officer of the United States. It will be remembered, of course, that about one hundred years ago how the Blount case ter of impeachment. Mr. Blount brought to trial in December, 1798, on impeachment before the Senate for high crimes and misdemeanors. In refhigh crimes and misdemedia. Story, in ernce to that case Justice Story, in his work, makes this

ment before the Senate in 1799, whether a senator was a civil officer of the United States within the purview of the Constitution, and it was decided by the Senate that he was not. (Senate Journal, 10th January, 1799.)

And [Mr. Justice Story continues] the like principle must apply to the members of the House of Representatives. This decision, upon which the Senate itself was greatly divided, seems not to have been quite satisfactory, as it may be gathered, to the minds of some learned commentators. The reason by which it was sustained in the Senate does not appear, their deliberations having been private, but it was probably held that civil officers of the United States are such as derive their apgovernment, and not from the States

In this view the enumeration of the President and the Vice President of the United States as impeachable officers was indispensable. They derive their authority from a source paramount to the national government, and the clause now under consideration does not even consider them officers of the United States. It says: "The President and Vice President and all civil officers shall be," etc., not "all other" civil officers. The language of the clause, therefore, would rather lead to the conclusion would indicate, that they were enumerated as contradistinguished from, rather than included in, the description of the civil officers of the United States. Other clauses of the Constitution would seem to favor the same result, particularly the clause respecting the appointment of officers of the United States by the executive, who has to commission "all the officers of the Uni-ted States," and the sixth section of Article I, which declares that "no per son holding office under the United States shall be a member of either House during his continuance in office and the first section of Article II, which declares that "no senator or represen-tative, or other person holding an office of trust or profit under the United States, shall be appointed an elector,"

The passage is from Story on the Constitution, fifth edition, pages 577 and 578, section 793. If Judge Story is right—and I take it he is—in concluding that the Senate

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In a Restaurant. A physician puts the queery: Have you never noticed in any large restaur-ant at lunch or dinner time the large number of hearty, vigorous old men at the tables; men whose ages run from 60 to 80 years; many of them bald and all

Perhaps the spectacle is so common as to have escaped your observation or comment, but nevertheless it is an obect lesson which means something. If you will notice what these hearty old fellows are eating you will observe that they are not munching bran crackers nor gingerly picking their way through a menu card of new fangled health foods; on the contrary they seem to prefer a juicy roast of beef, a prop-erly turned loin of mutton, and even

gether ignored. The point of all this is that a vigorous old age depends upon good digestion and plenty of wholesome food and not upon dieting and an endeavor to live pon bran crackers.

the deadly broiled lobster is not alto-

There is a certain class of food cranks who seem to believe that meat, coffee and many other good things are rank poisons, but these cadaverous, sickly ooking individuals are a walking con-

demnation of their own theories. The matter in a nutshell is that if the omach secrets the natural digestive juices in sufficient quantity any whole-some food will be promptly digested; if the stomach does not do so and cer tain foods cause distress, one or two of Stuart's Dyspepsia Tablets after each meal will remove all difficulty be-cause they supply just what every weak stomach lacks, pepsin, hydro-chloric acid, disastase and nux.

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rightfully refuse to consider a United States senator an officer under the United States within the meaning of the Constitution, then with more em-phasis could the contention be made that a member of the House of Representatives, both from the nature of his election and of the part he takes in the government, is not an officer under the United States; because a senfor may take part in the ratification of treaties, which a member may not, and a Senator joins with the executive in the approval of certain officers that are to be appointed by the executive of the nation, whereas a member of the House is much further removed from association with duties of that

I call the attention of the committee to the fact, too, that in the case of resignation the representative does not resign to the President of the United States, nor to any United States au-thority. He tenders his resignation to the governor of the State and the people from which he comes, from whence he derived all his authority. It was contended here by counsel yesterday that a member of the House must be a United States officer, within the meaning of the Constitution, because he receives his remuneration from the United But in that case I take it that the United States is but acting as the agent of the people in the matter of pay-fng these men, who are the representatives of the people from the various States; and I can see no special weight in that connection. I think that if you try to find whose agent a person is, it is proper to go to the parties who who confer upon him the sign of his office and of his authority, and to whom, in the event of the necessity arising, he tenders his resignation-all of which occurs, of course, within the State from which he comes, and not to the United States.

With this explanation of the opera tion of the eighth section of the Ed-munds law it seems clear, to my mind at least, that the disqualifying clauses of that section do not operate upon a person who is a member of the House of Representatives, for the reason that he is not an officer under the United States within the meaning of the Ed-munds law; and I come to that conclusion for the reason that I think it is established that he is not an officer under the meaning of that term as it appears in the Constitution, and hence, also, not an officer under the United States within the meaning of the phraseology of this Edmunds law.

I next call attention to the fact tha the State of Utah did not continue the disqualifying clauses of the law: that while into the State there has been brought a law which defines and punishes the crime of polygamy and which also defines and punishes crime of unlawful cohabitation, it has nowhere continued the disqualifications upon that head. So if these disquali-fying clauses of the Edmunds law do not operate upon the Congressman from Utah, and if the State of Utah has not continued these disqualifications, then it follows that there are no disqualifications which operate upon the membe

The disabilities, moreover, of this Edmunds law, which would have operated upon the member from Utah, provided Utah had continued a Territory and he was a Delegate to this House of Representatives, even then might have been removed, in my judgment, by several processes, and I merely mention them now, as I shall discuss them more in detail later on.

Mr. Morris-Do you think that would have applied to a Delegate from Utah? Mr. Roberts—If he had been convicted before a court? Yes.

Mr. Morris-Do you think he would have been an officer under the United

Mr. Roberts—He would at least have been an officer by United States law, and hence an officer of the United

Mr. Morris-Would he have come ur der that eighth section of the Edmunds law? In other words, under the eighth section of the Edmunds law could man who was a polygamist or living in unlawful cohabitation have been qualified to be a Delegate in Congress?

Mr. Roberts-You ask if he could be? Mr. Morris-What your idea is about is what I asked. Mr. Roberts-Let me get your que tion first. You asked if he could be? Mr. Morris-Would the fact of his

being a polygamist or living in unlawful cohabitation disqualify him from ing elected a Delégate? Mr. Roberts-If a conviction against him was had I think it would.

Mr. Morris-And otherwise not? Mr. Roberts—Yes, sir; otherwise not. Mr. Landis—You say the Delegate would be a United States officer because created by a United States law? Mr. Roberts-He is a Territorial offi-

Mr. Landis-I understood you to say a United States officer.

Mr. Littlefield—I suppose the distinction he has in his mind is that one is

provided for by the Constitution and the other provided for by law.

Mr. Roberts-Yes, sir; that is right. Mr. Morris-As I understood you you argued that the eighth sec tion of the Edmunds law did not apply to your case, because as a member the House of Representatives you would not be an officer under the United

Roberts. That is right. Mr. Roberts. That is right.
Mr. Morris. Now, is it your idea (and
I am asking simply for information, perhaps gray, but none of them feeble and for your own view of the matter) that a delegate from the Territory of Utah would have been an officer under

Mr. Roberts. No. sir. Mr. Morris. Within the meaning of that statute?

Mr. Roberts. No, sir; but he might have been disqualified by the operation of this law providing a conviction had been secured against him.

Mr. McPherson, I do not want to

annoy you with questions, but in that connection my mind is running to two ropositions: First, as an officer of the inited States, what you are discussing: second to the language of the Edmunds law, section 8, which reads: "Or be entitled to hold any office or place of iblic trust." Would a representative Congress be a place of public trust? The Edmunds law says, "any office.

You say a representative in Congress is

Mr. Roberts. "Or place of public trust." My point is that the law has reference to United States officers actg within Territories and places over which the United States have exclusive jurisdiction, and that the representative whatever becomes of the delegate it is not a matter before us to be conrepresentative from the State of Utah of any member from any State.

Mr. McPherson. But what I was trying to get at is this: Is a representative in Congress a place of public trust

nder the United States. Mr. Roberts. Not within the meaning of the section of the Constitution.
The Chairman. But under the sec-

tion of the Edmunds law-Mr. McPherson. That is what I am talking about. Mr. Roberts. If he is not an officer under the United States under the Constitution, certainly he is not under the section of the Edmunds law.

The Chairman. Don't you think the statute to have a different meaning from the Constitution? Roberts-I think if it has any weight it derives it from the definition

that clings about the phraseology in the lause of the Constitution I was proceeding to state that even f it were contended that disabilities once existed against the member from Utah under Territorial conditions they

were liable to removal: First, by the amnesties of the Presidents of the United States.
Second, by the act of Congress and the President, whose law created the disabilities, and afterwards by the En-

abling Act; and, Third, by the action of the State of Utah when she established the qualifications of her electors. That leads me to the consideration of the question whether the disabilities which once in force upon the member from Utah have been removed. These disabilities, if they were not removed, operated, of course-at least as long as Utah was a Territory-from 1889 to January 6 1896.

The Chairman-That is assuming that there was no violation under the last amnesty.

Mr. Roberts-I will come to the consideration of the effect of those am-nesties in a moment, and I think the statement I now make will be covered by the subsequent argument upon that question. The first amnesty proclamation was issued by President Harrison in January, 1898, and the amnesty proc-lamation of Grover Cleveland was is-sued in September, 1894. I call the attention of the committee to the fact that there is nothing in these proclamations that required a person to make tionship that he had been living in during the past.

Of course, it is stated in the amnesty proclamations that a person can only take advantage of that amnesty by having observed the law; but he is not required, for instance, to set the town crier at work and assemble the people and make proclamation that the polygamous relations that he has hitherto sustained with this one or that one, are from henceforth discontinued. not required to go before any court and make any affirmative or negative movement in regard to releasing himself from that relationship, that status. He could not go before the courts and do that because the women in question have no legal status before the courte. There is no way by which a divorce

could be obtained from a polygamous wife in the Territorial court, or in the State courts of Utah, or elsewhere, so far as I know. The contract having is no legal contract existing, and consequently there was no means existing which a person could, or was required to, publicly renounce those relations, and no one in the Territory or of Utah ever did, and if the benefit of these amnesty proclamations is dependent upon some public action severing those relations, then they have never applied to any single individual in the State of Utah at any time.

So the question arises, How are you to judge of a person having complied with the terms of these amnesties? I know of no other way than to assume that if there has been no accusations made before the courts, or prosecution instituted before the courts against a person for violation of the law; and there are no convictions on record of violation of the law, the fair presumpprescribed in the Edmunds law; and I | tion is that the law has been observed think that is admitted here and does and hence the amnesty provisions of not require the reading of the State law these proclamations would rest upon the man who had hitherto been dis-qualified by the operations of that law. And there is no other way of arriving at that fact. Another thing would demonstrate it, and that is, has the individual in question enjoyed the advantages that would come from a release from the previously existing dis-qualifications? If he has, and it has been public and notorious, then I take it you have evidence that he has complied with the requirements of the

Now, in that status how stands the Representative from Utah? that there exists from 1889, time he pleaded guilty to the misde-meanor of unlawful cohabitation, to the

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Dr. David Kennedy's Favorite Reme. dy is sold by all druggists at \$1.00 a bottle. ime of statehood, in 1896-there appears o accusation against him before any the courts with reference to his havviolated the Elmunds law; and ere is no conviction between those tes when the law was operative in e now State of Utah. It is a matter evidence here, too, that the member om Utah, while Utah was a Territory njoyed the benefits of the amnest;

lamation, in this: In the autumn of 1894 he voted, and cas elected a member of the Constituonal Convention of the Territory of That was in the fall of 1894 oon after the proclamation was issued President Grover Cleveland. He liped to form the Constitution of the tate while Utah was still a Territory Again, in the fall of 1895, he voted for Constitution and the first set o te officers, while Utah was still a while Utah was a Territory, ut with his party was defeated. And il this without complaint from any quarter whatsoever that he had been a violator of the Eedmunds law. The gitators on this subject have even peen at the pains to dig up the oathnd, as I remember, presented it here evidence—to the effect that in the Il of 1895 he took the oath prescribed nd voted for State officers. Well, under all these acts, and from

nade against him before the courts it all these years, and that he engaged it all these public duties of voting and office holding in the Territory of Utah and assisted in framing the fundamental law of the State, and also being the nominee of a party for election to Con gress, without complaint about his marital relations, I take it you have in hose circumstances very substantial evidence that the amnesties of the Presidents of the United States operated upon this man; because he had not violated the law, and I ask you to take nto account the further fact that he was a man very much opposed; that he had his enemies in the State; that he was engaged in religious controversies and political controversies and had enemies on every hand who would have been only too willing to have taken advantage of any slip of his that might have appeared that would have rendered him an object of prosecution bere the courts of the Territory of

I call attention further to the fact that during the continution of the Ter-ritory every federal official was a non-'Mormon;" all the judges of the co were non-"Mormons;" the United States district attorneys in the State the United were non-"Mormons," and there was also an active crowd of sectarian bigots who were ever anxious to make other people be good. The heel of the mem-ber from Utah would only too gladly have been caught by the many who were watching him for many years. So that it comes a little too late for the men who follow me to the threshold of the House of Representatives from the State of Utah, to say that the disqualifications of the Edmunds-Tucker law are still clinging to me. I understood the gentieman who offered the argument for the opposition yesterday to say that the test of this matter-that is, as to whether the once impaired cit-izenship of the member from Utah was ver mended or not-would be to ertain if he could go to any other ferritory or State and exercise the ective franchise and the privilege of free holding. Why, he need not sub-nit it to any such test as that. I exrcised these rights in the Territory of tah where I was known, and that without any question from anybody or from any source. And there is an enabsence of even accusation, to say nothing of conviction, with regard to these offenses I think that that oper-

ates to this day.

If this committee shall take the view, opposition to the contention that I ave made, that a representative is a ng his resident State, the State which represents, and stops here tempor on the soil over which the United states has exclusive jurisdiction, that herefore a member of Congress comes inder the disqualifying clauses of the Edmunds bill-then I insist, gentlemen that these disqualifications do not ap-ply to the representative from Utah for reason that those disqualifications that once did apply to him under Terriorial conditions in Utah, were moved by these amnesties, and there s no evidence, there is no court record there is no accusation even, except that made by religious fanatics since the election of the member from Utah, that he ever violated the law against unawful polygamous living, i. e., unlawul cohabitation.

I call your attention to the class of people who are, I will not say persecuting, because I have a sort of contempt for that word, and do not propose to plead persecution, but those who have hounded me to the threshold of the House of Representatives. Who are they? Are they the bankers, the merchants, the miners, the lawyers, the representative people of the State of or are they confined exclusively with the single exception of a tenthrate lawyer who is without standing in his own State, to missionaries sent from the Eastern States to convert the "heathen 'Mormons,'" and having been opposed by one native to the faith of the "Mormon" religion now pursue him to the doors of the House of Repconfined to them? Where are the petitions

lasses of the State of Utah? Another thing that I wish to call attention of the committee to is this: President Harrison, in his proclama-tion, savs: "Those who shall fail to avail themselves of the clemency hereoffered will be vigorously prosecuted." and yet there were no prosecution instituted against the member

from Utah after that. I hold, further, that the disabilities that impaired the citizenship of the member from Utah were removed by the action of Congress and the President, the whole lawmaking power of the government, by the passage of the The Enabling Act, sec-Enabling Act.

tion 2 provided: Section 2. That all citizens of the United States over the age of 21 years who have resided in said Territory for one year next prior to such election are hereby authorized to vote for and choose delegates to form a convention in said Territory. Such delegates shall possess the qualifications of such elec-

The board of commissioners, known as the Utah commission, is hereby authorized and required to cause a new and complete registration of voters of said Territory to be made under the provisions of the laws of the United States and said Territory, except that the oath required for registration under said laws shall be so modified as to test the qualifications of the electors, as prescribed in this act; such new registration to be made as nearly conformable with the provisions of such aws as may be, and such elections for ielegates shall be conducted, the reurns made, the results ascertained, and the certificates of persons elected to such convention issued in the same manner as is prescribed by the laws of said Territory regulating elections therein as members of the legislature

And section 20 of the same act provided as follows:

Section 20. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislature of said Territory or by Congress, are hereby repealed. Those are the provisions of the En-

abling Act, and that it was the intent of Congress to remove the disabilities that had been created by this Edmunds law is quite evident from the attempts that were made to do otherwise in the course of the legislation of the House with reference to this particular bill. At one stage of its discussion Mr. Wheeler, of Alabama, who was the chairman of the committee on the Territories, proposed the following as a substitute for section 2:

All persons who are qualified by laws of the said Territory to vote representatives to the legislative representatives to the legislative sembly are hereby authorized to for and choose delegates to form convention in said Territory, and qualifications for such delegates to a convention shall be such as by laws of said Territory persons are quired to possess to be eligible to legislative assembly thereof.

Now, of course, had that amende prevailed, the result would have that all people that were disqual by the Edmunds law would not be thorized to take part in the election members to the Constitutional Contion, nor would they have been to be members of that convention; the amendment of Mr. Wheeler was adopted; and the section which I have been adopted. read, which required such modification testing the electors that were thorized to constitute this converifications as I have read were mand the Utah Commission according changed the oath that was present those who desired to take part it election of members to the Constitu al Convention so as to test them me as to whether they were male cit of the United States, 21 years of me year a resident of the State, four months in the county. sixty days in the precinct. I thin have the modified oath here. Mr. Littlefield—That is, change from the oath required by the munds-Tucker act?

Mr. Roberts-Entirely changed The Chairman-Was that the you took-the oath made by virtuthat provision that is in the record this case?

Mr. Roberts—No, sir.

The Chairman—Under a late one,

it; under the provisions of what act you take the oath?
Mr. Roberts-I took the oath un the effect of amnesty; I took the that tested the qualifications for eleing all the officers.

Mr. McPherson—Did your oath follow
the language of the Edmunds-Tucker

statute? Mr. Roberts-Yes, sir. Mr. Littlefield-It was taken unde that and not under this modificat you are speaking of?

Mr. Roberts-Yes, sir; but I am speak ing of the change that was made in the oath that tested the qualifications of these who wished to vote for the me ers to the Constitutional Conven This was the oath generally required voters for Territorial officers.

Territory of Utah, County of --- , 50 - ---, being duly sworn affirm), depose and say that I am of 21 years of age; that I have resided the Territory of Utah for six montast past, and in this precinct for month immediately preceding the deposit of the control of naturalized, as the case may be) cit of the United States, and that my name is _____; that I am years of age; that my place of busin is ____; that I am a (single or) marr man; that the name of my lawful is _____, and that I will support the Constitution of the United Sta and will faithfully obey the laws the of, and especially will obey the act Congress approved March 22, 1882. titled "An Act to amend section 535 the Revised Statutes of the States in reference to bigamy, and other purposes," and that I will all obey the act of Congress of March 1887, entitled "An act to amend an entitled 'An act to amend section 5 of the Revised Statutes of the United States in reference to bigamy, and for other purposes, approved March 22, 1882," in respect to the crimes in said sons guilty of treason and of crimes act defined and forbidden, and that I against the franchise should be diswill not, directly or indirectly, aid or to commit any of said crimes.

Subscribed and sworn to before me this -- day of -- 18-.

Deputy Registration Officer for Precinct.

Mr. Morris-That is the oath you Mr. Roberts-Yes, sir; in 1894. Now, Mr. Chairman, under the di tion of the enabling act the Utah com-mission so modified that oath with reference to these particular offenses

as to omit reference to them. This was the form of oath that was known as the "Constitutional oath."—
Mr. Littlefield—Have you a copy of
the oath they prescribed? Mr. Roberts-This is a copy of the oath prescribed for voting for members

o the constitutional convention.
Mr. Littlefield—Of the oath that the ommissioners prescribed? Mr. Roberts-Yes; this is the oath that I am about to read:

Territory of Utah, County of — and — Precinct:
— on oath swears (or affirms) that at the next election he will be years of age and upward and will have been a citizen of the United States f ninety days and have resided in the Territory for one year and in the county four months and in the precinct for sixty days.

And then it is signed, and the certification of the registration officer fo ws. I call attention to the change these two forms of oath to show that the intent in the enabling act-Mr. Morris-That was all the oaths'

Mr. Roberts-Yes, sir; all of the contitutional oath. Mr. McPherson-I do not quite un-Mr. McPherson-I do not quite un-derstand that. That oath was pre-scribed by the Utah commissioners, under and by virtue of the authority of the enabling act?

Mr. Roberts-Yes, sir; that is right.
Mr. Morris-Will you be kind enough to read that part of the enabling act

that you read just now to show what the enabling act was?

Mr. Littlefield—Authorizing the oath? Mr. Morris-Yes.

Mr. Roberts (reading): The board of commissioners, known as the Utah Commissioners, is hereby authorized and required to cause a new and complete registration of voters said Territory to be made under provisions of the laws of the United States and said Territory, except that the oath required for registration under said laws shall be so modified as to test the qualifications of the electors as

prescribed in this act.

That is, as to their being citizens of the United States and 21 years of age.

Mr. Morris—What were the qualifications?

Mr. Roberts. "That all male citizens of the United States over the age of 2 years who have resided in said Terri tory for one year next prior to such election are hereby authorized to vot for and choose delegates to form convention in said Territory." Mr. Morris, Are those the sole quali Mr. Roberts. Yes, sir; those are

sole qualifications required under the Enabling Act. I call attention to distinction between the qualifications prescribed under the act and those qualifications making a person eligible vote for members of the State legi-

Mr. Littlefield. Did that go so far to also make them eligible to office the convention?

Mr. Roberts. Yes, sir; they could also be members of the convention under

that.
Mr. McPherson. Any man who was an elector could be a delegate?
Mr. Roberts. Yes, sir.

In the interview that was published in the Washington Post of November 29, 1899, Senator Rawlins, who introduced this Enabling Act and eng neered it through the House, pared statement made in the Post, not casual interview with a reporter, but in a prepared statement that he him self submitted, made these remarks:

That polygamists should be disqu ified to vote or to hold office was part of the compact between the Stof Utah and the United States.

The Kind You Have Always Bought A Vegetable Preparation for Asinulating the Food and Regula-Bears the ind the Storages and Bowels of INDINES THEOREN Signature Promotes Digestion, Cheerfulness and Rest Contains neither Morphine nor Mineral. NOT NARCOTIC. Recipe of Old Dr SAMUEL PITCHER Pumpkin Seed -Alx Serv is -Stochalis Solts -Anise Seed -Paparnint -th Carbanat Soda + Viens Seed -Clarifud Super -Whayron Flavor A perfect Remedy for Constipation, Sour Stomach, Diarrhoea, You Have Worms, Convulsions, Feverishness and Loss of SLEEP. Fac Simile Signature of Always Bought. Chatteteter. NEW YORK. Alb months old 35 Doses - 35 Ceni EXACT COPY OF WRAPPER

Territorial elections polygamists were so disqualified; but Congress purposey and knowingly wiped away all such lisqualification as to the very first elec-ion to be held under the Enabling Act, amely, the election of delgates to the Constitutional Convention.

Then again, in addition to that, came the act of the State of Utah, which prescribed the qualifications of her own ourse, fixed by the Constitution-those imitations that secure an equality of the right of citizens in all the States and that prohibit their rights being abridged by reason of previous ser tude, etc. (Constitution, fifteenth amendment). But the sovereign State of Utah, acting in her sovereign capac ity in determining who should consti tute the electorate of the new State followed substantially the course that that is, that citizens of the United States of a given age and residence should be electors, and that only perqualified either to vote or to hold office. Mr. Morris. Was there anything in constitution adopted and which was approved by Congress, on that

Mr. Roberts. Yes, sir; the Constitution was adopted by the State and approved by Congress. Mr. Morris. I say was there anything that Constitution on that subject' Mr. Roberts. Of declaring the qualileations of its electorate? Mr. Morris. Yes.

Mr. Roberts. Yes, sir. Mr. Morris. Will you be kind enough Mr. Littlefield. You stated that in your opening remarks before the com-We have it in the record some-

Mr. Morris. This was drawing my atention more peculiarly and particular-Mr. Roberts. I do not seem to have the Constitution at hand to refer to. Mr. Morris. Well, we will look that Mr. Roberts. But I think I can get

t for you in a moment. Mr. Morris. I can look that up after-Mr. Roberts. I next come to the settlement of this polygamous question between the State of Utah and the United States and the consideration of

ence has been made. It was rehearsed here yesterday-After examination of a book then handed to him.) Responding to Judge Morris's request, I now read from arti-cle i of the Utah Constitution: The rights of citizens of the State of

Utah to vote and hold office shall not e denied or abridged on account sex. Both male and female citizens this State shall enjoy equally all civi collical, and religious rights rivileges. Every citizen of the United States of twenty-one years of age and upward who shall have been a citithe State or Territory for one ye the precinct for sixty days preceding t such election, except as herein oth-rwise provided.

And then follows: No person shall be deemed to be a ualified elector of this State unless such person be a citizen of the United States. No idlot, insane person, or person onvicted of treason or crime agains civil rights, shall be permitted office in this State.

Those are qualification of the elece of the State of Utah. unlawful cohabitation in the Consti-

at is, not with reference to the sub-et of voting or holding office. Mr. McPerson. In reference to the ctive franchise? Mr. Roberts. In reference to the elecsomething on the subject of polygamy,

but it has no bearing upon the qualifleations of the electorate.

I was remarking, when interrupted to make this explanation for Judge Morris, that a historical statement was made here yesterday with reference to the

subject of polygamy, and just for a moment I desire to call the attention of the committee to that matter, as it eads up to and is pertinent to the consideration of its settlement in the State of Utah. It is generally believed that the practice of polygamy by the "Mor-mon" Church, within a very limited circle, began in Nauvoo, in the State of Illinois, about 1840. In 1846 the Mormons were expelled from the State of Illinois, or at least were compelled to remove from that State by mop vio-lence; and they put 1,000 miles of wil-derness between them and the then frontiers of the United States. On ar-riving in Utah, which was then Mexican territory, they did not seek to es-tablish an independent government by any manner of means, but in 1843 they organized what was called the provisional State government for the State of Deseret and sent delegates to Washington to ask admission into the Union. I call attention to this fact because it is very frequently stated that the the confines of the Unled States was to et up a separate government, and that they had no attachment for the institunimicable to them; and have sought lo avoid contact with them and the rivilization they represent. In 1852 pubtrine of plurality of wives as a part of the revealed law of God to that people. For ten year the rightfulness of the practice went unchallenged so far as any legislation against it was concerned by Congress, but in 1862 the first aw of Congress was enacted against the Mormon morriage system, Of course it is well known. I presume, that the Mormon people took the position that the law was a direct infringement of their religions liberty. They regarded practice of that, to them, religious doctrin, by virtue of the first amendme the Constitution, which provides that Congress shall make no law concerning an establishment of religion, or prohibi the free excess thereof;" quently, since they regarded that law as an infringement of their religious lib erty, they went on in the practice of it the terms of compact to which refer- notwithstanding the law. For a good many years there was no attempt worthy the name to enforce that law in the Territory of Utah. Not until about

the year 1876 was there a case brought up which afforded the opportunity of ringing it before the courts to test the onstitutionality of the law. Morris. What case was that? Mr. Roberts. That was the Reynolds case, and it was the Mormon people Reynolds was chosen by the Mormon the vindication of that principle of religious freedom. They were, perhaps, overcontention that the Constitution shielded them in the practice of plural marreference to that law Mr. Reynolds was called upon to submit his case to the courts. He was sulected in preference to another gentleman, who had offered himself, because Mr. Reynolds's case seemed to touch all the points directly at issue; and the testimony was voluntarily supplied, as was also the whole case, and it went to trial. My recollertion is that it reached the Supremo court of the United States and a decision was rendered in the year 1878 Mr. Morris. It is in 38 United States,

if you have that here.

Mr. Chairman, What was the conclusion of the lower court-for or against Mr. Rawlins. All the way through Mr. Roberts. But the prosecution did for the act.

t begin before about 1876, as I now The Chairman, I understand,

(To be Continued.)

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